

Message Text

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ACTION AEC-11

INFO OCT-01 EA-11 ISO-00 SCI-06 L-03 IO-14 NAS-01 ABF-01

TRSE-00 CIAE-00 INR-11 NSAE-00 RSC-01 LAB-06 SIL-01

OMB-01 DRC-01 /069 W

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R 010900Z OCT 74

FM AMEMBASSY TOKYO

TO SECSTATE WASHDC 4940

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E.O. 11652: N/A

TAGS: TECH, JA, US

SUBJECT: ABCC

REF: A) STATE 209098, B) STATE 209099, C) STATE 209098

1. EMBASSY APPRECIATES HEPFUL MESSAGES ON PENDING ABCC ISSUES. PROPOSAL RE TERMINATION ALLOWANCE FOR ABCC PERSONNEL HAS BEEN DELIVERED TO MHW OFFICIAL (TSUNASHIMA), AND WILL ALSO BE PROVIDED FONOFF ON RETURN OF MATSUURA. IN CONECTION THIS PROPOSAL, AND ON BASIS OF CONSULTATION WITH RAPPAPORT, EMBASSY MODIFIED NOMENCLATURE SLIGHTLY, TO AVOID MISUNDERSTANDING, AS FOLLOWS:

1) SUBSTITUTE "ALLOWANCE" FOR "RESERVE" IN SUBPARAGRAPH (A), PARA 1, OF REF A.

2) SUBSTITUTE "TERMINATION ALLOWANCE RESERVE" FOR "TERMINATION RESERVE ALLOWANCE" IN SUBPARAGRAPH (B), PARA 1, OF REF A.

2. WHILE TSUNASHIMA RAISED NO QUESTIONS AT TIME PROPOSAL DELIVERED TO HIM, WE FEEL CERTAIN ON BASIS OF PREVIOUSLY EXPRESSED OPINIONS THAT JAPANESE WILL REQUEST CLARIFICATION OF MEANING OF PART B OF THE PROPOSAL. AS AEC AND NAS AWARE, TERMINATION ALLOWANCE PAID TO JAPANESE EMPLOYEES IS BASED ON SALARY AT TIME OF TERMINATION. THUS, WITH STEADILY INCREASING
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JAPANESE SALARY SCALE, THAT PORTION OF TERMINATION ALLOWANCES

CORRESPONDING TO TERM OF ABCC SERVICE PAYABLE TO FORMER ABCC EMPLOYEES WHO TERMINATE AFTER ESTABLISHMENT OF NEW INSTITUTE WILL NOT BE FULLY COVERED BY TERMINATION ALLOWANCE RESERVE AS OF MARCH 31, 1975. WHILE JAPANESE WILL BE PREPARED TO FUND THEIR SHARE OF LIABILITY CORRESPONDING TO SERVICE ACCRUED BY EMPLOYEES AFTER APRIL 1, 1975, IT IS PREDICTABLE THEY WILL NOT AGREE TO SHARE IN FUNDING THE INCREMENT, DUE TO SALARY INCREASES, CORRESPONDING TO SERVICE PRIOR TO THAT DATE. EMBASSY REQUESTS CLARIFICATION WHETHER INTENT OF LANGUAGE IN US PROPOSAL IS THAT THE INCREMENT RESULTING FROM SALARY INCREASES APPLIED TO TERM OF ABCC SERVICE WILL BE A US LIABILITY OR RESPONSIBILITY OF THE NEW INSTITUTE TO BE SHARED BY US AND JAPAN.

3. RELATED ISSUE IS EXISTENCE AND DISPOSITION OF FUNDS IN TERMINATION ALLOWANCE RESERVE AS OF MARCH 31, 1975. EMBASSY IS UNCLEAR AS TO WHETHER, IN WHAT FORM, AND IN WHAT AMOUNT SUCH FUND

ACTUALLY EXISTS, AND WOULD APPRECIATE BEING INFORMED OF FACTS. JAPANESE, IN ANY CASE, CLEARLY BELIEVE THERE IS A FUND, AND WILL UNDOUBTEDLY PRESS FOR IT TO BE TRANSFERRED TO NEW INSTITUTE, ESPECIALLY IF THEY ARE PRESSED TO SHARE IN FUNDING INCREMENT FOR ABCC SERVICE. INTEREST EARNED BY FUND WOULD HELP OFFSET INCREMENT DUE TO SALARY INCREASES. EMBASSY WOULD APPRECIATE BEING INFORMED OF STATUS OF FUND, AND US THINKING AS TO ITS DISPOSITION AFTER ESTABLISHMENT OF NEW INSTITUTE.

4. SCICOUNS ALSO PRESENTED REQUEST FOR MHW ASSIGNMENT OF REPRESENTATIVE TO CURRENT ABCC LABOR NEGOTIATIONS. TSUNASHIMA PROMISED EARLY ANSWER.

5. EMBASSY STILL SOMEWHAT UNCERTAIN AS TO STATUS OF NEED FOR SUPPLEMENTAL GOJ FUNDING FOR CURRENT FISCAL YEAR, AND WOULD APPRECIATE FURTHER INFO. WE ARE UNCERTAIN, FOR EXAMPLE, WHETHER REF A WAS PREPARED BEFORE OR AFTER RECEIPT OF TOKYO 12198, AND TAKES COMMENTS OF THAT MESSAGE INTO ACCOUNT. IN ADDITION, RAPPAPORT HAS INFORMED SCICOUNS THAT NEW MESSAGE FROM NAS INDICATES AMOUNT TO BE REQUESTED IS 32 PERCENT OF GOJ FY 1974 CONTRIBUTION; AND NOT FULL 32 PERCENT OF SALARY COSTS. THIS IS ONLY ABOUT ONE-THIRD OF FIGURE EARLIER MENTIONED BY RAPPAPORT, OR \$500,000. WHILE WE WOULD ANTICIPATE GREAT DIFFICULTY IN LIMITED OFFICIAL USE

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SECURING EVEN THIS FIGURE FROM JAPANESE, ITS SMALLER AMOUNT AND MORE SALEABLE RATIONALE WOULD AT LEAST MAKE EFFORT WORTH-WHILE. PLEASE ADVISE WHETHER EMBASSY IS EXPECTED TO SUPPORT THIS OR SOME OTHER REQUEST FOR ADDITIONAL FINANCIAL SUPPORT FOR THIS FISCAL YEAR.

6. WE APPRECIATE CLARIFICATION OF INTENT OF US MODIFICATION OF PARA 2 OF SUPPLEMENTARY PROVISIONS. DIFFICULTY, WHICH WE BELIEVE

IS STILL PRESENT, ARISES FROM TWO SOURCES:

A) MEANING OF DIRECTORS, AS INTENDED BY PARA 2 OF SUPPLEMENTARY PROVISIONS, IS PERHAPS SOMEWHAT AMBIGUOUS. WHILE THERE ARE TEN MEMBERS OF BOARD OF DIRECTOR, AND, IN NORMAL US PRACTICE ALL OF THESE WOULD BE REGARDED AS DIRECTORS, THE ONLY OFFICIALS DESIGNATED BY THE UNQUALIFIED TITLE OF "DIRECTOR" IN ACT OF ENDOWMENT ARE THE SIX MEMBERS, OTHER THAN THE CHAIRMAN, VICE CHAIRMAN, AND PERMANENT DIRECTORS. WE BELIEVE IT IS FAIRLY CLEAR THAT PARA 2 OF SUPPLEMENTARY PROVISIONS IN JAPANESE DRAFT REFERS TO THESE 6 "DIRECTORS" ONLY, AND NOT TO ALL 10 MEMBERS OF BOARD, SINCE PARA 2 OF ARTICLE 16 IS CLEARLY ADDRESSED ONLY TO THE SIX "DIRECTORS." WE THEREFORE INTERPRETED US SUGGESTION, AND BELIEVE JAPANESE WOULD DO LIKEWISE, TO REFER ONLY TO THE SIX OFFICIALS DESIGNATED "DIRECTORS." US SUGGESTION THAT FIVE OF THESE SIX DIRECTORS BE INITIALLY APPOINTED FOR TWO YEARS WHILE THE SIXTH WOULD SERVE FOR FOUR YEARS, ALTHOUGH NOT UNWORKABLE, SEEMS TO US TO BE A SOMEWHAT CURIOUS AND POTENTIALLY DIVISIVE ARRANGEMENT.

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TRSE-00 CIAE-00 INR-11 NSAE-00 RSC-01 LAB-06 SIL-01

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B) SINCE THERE ARE THREE US DIRECTORS AND THREE JAPANESE DIRECTORS, IT IS CLEARLY IMPOSSIBLE TO HAVE 1/2 OF THE US DIRECTORS AND 1/2 OF THE JAPANESE DIRECTORS INITIALLY APPOINTED FOR TWO YEARS. THIS SAME DIFFICULTY APPLIES WHETHER US PROPOSAL IS INTERPRETED AS APPLYING ONLY TO THE SIX "DIRECTORS," AS WE ASSUMED, OR TO ALL TEN BOARD MEMBERS, AS EXPLAINED IN PARA 4,

REF B. ARTICLE 3 OF SUPPLEMENTARY PROVISIONS, AS ORIGINALLY DRAFTED BY JAPANESE, DOES NOT PRESENT THIS ANATOMICAL PROBLEM, SINCE IT SIMPLY CALLS FOR 1/2 OF ORIGINAL SCIENTIFIC COUNCILLORS TO BE APPOINTED FOR TWO YEARS, WITHOUT SPECIFYING THAT 1/2 OF EACH NATIONALITY BE SO APPOINTED.

7. IT SEEMS TO US THAT ORIGINAL JAPANESE PROPOSAL (I.E., THAT ALL SIX DIRECTORS INITIALLY SERVE FOR TWO YEARS, WHILE OTHER BOARD MEMBERS SERVE FOR FOUR) ACCOMPLISHES INTENT OF US PROPOSAL, - I.E., TO HAVE STAGGERED TERMS FOR BOARD MEMBERS - RATHER WELL, AND AVOIDS PROBLEMS CITED ABOVE. IT DIFFERS FROM US PROPOSAL, AS INTERPRETED IN REF B, ONLY IN RESPECT TO THE INITIAL TERM OF ONE DIRECTOR. HOWEVER, IF US APPROACH STILL PREFERRED, OUR SUGGESTION IS TO WORD US PROPOSAL AS FOLLOWS: "NOTWITHSTANDING THE PROVISIONS OF PARA 2 OF ARTICLE 16 THE TERM OF OFFICE OF 1/2 OF THE MEMBERS OF THE BOARD OF DIRECTORS AT THE TIME OF ESTABLISHMENT OF THE INSTITUTE SHALL BE TWO YEARS, IT BEING UNDERSTOOD THAT THE CHAIRMAN, THE VICE CHAIRMAN, THE PERMANENT DIRECTORS, AND ONE OF THE DIRECTORS SHALL SERVE FOR A FOUR YEAR LIMITED OFFICIAL USE

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PERIOD." FOR REASONS TO BE COVERED IN SUBSEQUENT MESSAGE, HOWEVER, EMBASSY SUGGESTION IS THAT WE DROP OUR PROPOSAL ON INITIAL TERM OF BOARD MEMBERS, WHILE RESERVING RIGHT TO MAKE PROPOSALS IN THIS REGARD IN FUTURE.

8. WE APPRECIATE RECEIVING TEXT OF AUDIT PROVISION IN AEC FOREIGN RESEARCH CONTRACTS, AND AGREE THAT EXISTENCE OF THIS TEXT IN NUMEROUS SUCH CONTRACTS IS USEFUL PRECEDENT TO CITE IN DISCUSSION OF AUDIT MATTER WITH GOJ. AS WE UNDERSTAND IT, HOWEVER, THIS CONTRACTUAL ARTICLE IS PROVIDED FOR BACKGROUND PURPOSES, AND NOT AS PROPOSED TEXT FOR INCLUSION IN ANY OF THREE CONTROLLING DOCUMENTS FOR WHICH IT CLEARLY UNSUITABLE. WE BELIEVE THAT NECESSARY PROGRESS ON THIS ISSUE CAN BEST BE MADE BY US PROPOSAL OF SPECIFIC LANGUAGE FOR INCLUSION IN RECORD OF DISCUSSIONS THAT WOULD ESTABLISH RIGHT OF EITHER GOVERNMENT TO CONDUCT FINANCIAL EXAMINATIONS OF THE USE OF FUNDS WHICH IT HAS FURNISHED TO INSTITUTE, MAKING MAXIMUM POSSIBLE USE IN SUCH EXAMINATIONS OF THE RECORDS AND FINDINGS OF THE FOUNDATION'S TWO SUPERVISORS. EMBASSY WOULD APPRECIATE RECEIVING TEXT BASED ON THIS OR SOME OTHER CONCEPT FOR PROPOSAL TO GOJ.
HODGSON

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